

1 LYNNE C. HERMLE (STATE BAR NO. 99779)  
2 JOSEPH C. LIBURT (STATE BAR NO. 155507)  
3 JESSICA R. PERRY (STATE BAR NO. 209321)  
4 ORRICK, HERRINGTON & SUTCLIFFE LLP  
5 1000 Marsh Road  
Menlo Park, CA 94025  
Telephone: 650-614-7400  
Facsimile: 650-614-7401

6 Attorneys for Defendants  
7 APPLE COMPUTER, INC. and  
DAVID BLACK

8 WAUKEEN Q. MCCOY, ESQ.  
LAW OFFICES OF WAUKEEN Q. MCCOY  
9 703 Market Street, Suite 1407  
San Francisco, CA 94103  
Telephone: 415-675-7705  
10 Facsimile: 415-675-2530

11 Attorneys for Plaintiff  
NANCY ZAYED

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA

14  
15 NANCY ZAYED, an individual,

16 Plaintiff,

17 v.

18 APPLE COMPUTERS, a corporation doing  
19 business in California; DAVID BLACK, an  
individual, and DOES 1-50, inclusive,

20 Defendants.

21 Case No. C-04-1787

22  
23  
24  
25  
26  
27  
28  
**STIPULATION AND [PROPOSED]  
ORDER TO CHANGE TIME  
REGARDING EXPERT WITNESS  
DISCLOSURE DEADLINES  
PURSUANT TO LOCAL RULE 6-2**



1           The parties hereto, and their undersigned counsel, hereby stipulate as follows:

2           WHEREAS the Court previously entered a Scheduling Order in this cause on  
3 February 1, 2005;

4           WHEREAS the Scheduling Order sets forth dates related to the disclosure of  
5 expert witnesses pursuant to F.R.C.P. 26(a);

6           WHEREAS the expert disclosure deadline is August 1, 2005 (*see* Sched. Order ¶  
7 4), the deadline to disclose rebuttal expert witnesses is August 15, 2005 (*see* Sched. Order ¶ 5),  
8 and the deadline to have heard any motion challenging the qualifications of or proposed  
9 testimony of designated expert witnesses is September 16, 2005 (*see* Sched. Order, ¶ 7);

10          WHEREAS discovery closes on October 3, 2005;

11          WHEREAS the Parties agree that although discovery in this case has proceeded, it  
12 has not been substantially completed, such that the expert witness reports required by Rule  
13 26(a)(2)(B) if prepared today would be substantially incomplete based on the discovery thus far;

14          WHEREAS the Parties agree that the preparation of such incomplete reports  
15 would be premature and a waste of resources;

16          WHEREAS Plaintiff has indicated her intention to move to file a Second  
17 Amended Complaint, which will require further discovery into the new allegations and claims;

18          WHEREAS the Parties believe that extending the expert witness deadlines set out  
19 above until after the court rules on the parties' dispositive motions will be conducive to the  
20 efficient and expedient conduct of this litigation and will serve the ends of justice and avoid  
21 unnecessary costs; and

22          WHEREAS the Parties have not previously requested any time modifications to  
23 the Scheduling Order deadlines set by the Court,

24          NOW THEREFORE, IT IS AGREED AS FOLLOWS:

25          1.       The deadlines set forth in the Court's February 1, 2005, Scheduling Order  
26 should be modified as follows:

- (a) the deadline to disclose expert witnesses pursuant to F.R.C.P. 26(a) is January 6, 2006;
- (b) the deadline to disclose rebuttal expert witnesses is January 20, 2006;
- (c) the hearing deadline for motions objecting to the qualifications or proposed testimony of any expert is March 6, 2006.
- (d) The discovery deadline is extended to February 20, 2006, as to expert discovery only, and shall otherwise remain October 3, 2005, for all non-expert discovery.

2. This Stipulation shall be made an Order of the Court.

Dated: July 20, 2005

LYNNE C. HERMLE  
JOSEPH C. LIBURT  
JESSICA R. PERRY  
ORRICK, HERRINGTON & SUTCLIFFE LLP

Dated: July 20, 2005

WAUKEEN Q. MCCOY, ESQ.  
LAW OFFICES OF WAUKEEN Q. MCCOY

Rachael Orejana  
Attorneys for Plaintiff  
Nancy Zayed

## **ORDER**

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: July 22, 2005

/s/ James Ware  
Hon. James Ware  
UNITED STATES DISTRICT JUDGE